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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,430	08/31/2001	Kishore C. Acharya	GEMS8081.096	9467
27061 7590 06/15/2007 ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS) 136 S WISCONSIN ST PORT WASHINGTON, WI 53074			EXAMINER CATTUNGAL, SANJAY	
			ART UNIT 3768	PAPER NUMBER
			MAIL DATE 06/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/682,430

Applicant(s)

ACHARYA, KISHORE C.

Examiner

Sanjay Cattungal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 03/30/2007 have been fully considered but they are not persuasive. Applicant argues that the Rule 131 affidavit filed May 23, 2005 overcomes the Jaszcak et al reference. Examiner would like to point out that in 131 rule affidavit applicant claims knowledge of the invention prior to June 5, 2001, but the Jaszcak reference has a provisional application filed June 5, 2000 and claims priority to it, and the Rule 131 affidavit does not overcome the June 5, 2000 priority date and hence the rejection still stands and is made Final.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,629,469 to Jaszcak et al. in view of U. S. Patent No. 5,052,934 to Carey et al.**

4. Regarding **Claims 1 and 7**, Jaszcak teaches a dynamic cardiac phantom comprising: a phantom body made of pliable material to expand and contract based on an injection and discharge of fluid therein, wherein the phantom body has a shape to simulate that of a heart, the phantom body further having a shell made of the pliable material and that defines a fluid chamber in a volume defined by an interior surface of

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the shell (Abstract, Col. 2 Lines 9-60 and Fig. 1-8); a plurality of protrusions connected to the shell and in fluid communication with the fluid chamber, each of the plurality of protrusions having a shape to simulate a respective chamber of the heart (Fig. 1-8 and Col. 4 lines 5-41); and at least one inlet connected to the shell at one end and fluidly connected to the fluid chamber, the at least one inlet having another end connectable to a fluid source to pass fluid to and from the fluid chamber and the plurality of protrusions in a manner to simulate cardiac motion. (Abstract, Fig. 1-8, Col. 6 Lines 55 through Col. 7 lines 34, and Claim 1)

Jaszczak does not expressly teach that the system has multiple inlet and outlets. Carey discloses a cardiac phantom with multiple inlets and outlets. (Fig. 7 element 102, 130 and 60)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jaszczak with a setup of multiple inlets and outlets as taught by Carey since such a setup would result in a phantom that's more close in setup to an actual heart and hence the flows could better be understood.

5. Regarding **Claims 4-6 and 8-24**, Carey teaches that a cam-drive system that allows user to make independent fine adjustments to the stroke volume. (Col. 9 Lines 35-45)

6. Regarding **Claims 25-32**, Jaszczak teaches phantomming a cardiac motion for use with a scanner comprising: connecting a balloon having an inlet and plurality of tubular protrusions to a fluid reservoir; filling the balloon with fluid; circulating fluid to and

from the balloon; and acquiring image data from the balloong during circulation step.

(Abstract and Fig. 1-8)

7. Regarding **Claim 33**, Jaszcak teaches that the cardiac phantom could be imaged using Mri, xray, CT, and NM/PET scanner (Col. 10 Lines 9-15)

8. **Claims 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U. S. Patent No. 6,629,469 to Jaszcak et al. in view of U. S. Patent No. 5,052,934 to Carey et al. further in view of U. S. Patent No. 6,498,828 to Jiang**

9. Regarding **Claims 34-36**, Jaszcak and Carey teach the use of an expandable balloon having a number of tubular protrusions and an inlet configured to receive circulating fluid such that circulation of the fluid simulates cardiac motion that is being scanned by a CT scan system.

Jaszcak and Carey do not expressly teach all the details of the CT scan system.

Jiang teaches a computed tomography system comprising: a rotatable gantry having an opening (Abstract and Fig. 2 element 30); a high frequency electromagnetic energy projection source to project high frequency energy toward an object (Abstract and Fig. 1); a scintillator array having a plurality of scintillators to receive high frequency electromagnetic energy attenuated by the object(Abstract); a photodiode array having a plurality of photodiodes, wherein the photodiode array is optically coupled to the scintillator array and is configured to detect light energy emitted therefrom (Fig. 4 element 52); a plurality of electrical interconnects configured to transmit photodiode outputs to a data processing system (Fig. 4); a computer to produce a visual display

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based upon the photodiode outputs transmitted to the data processing system (Fig. 2 element 36)

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Jaszczak and Carey with a CT scan system taught by Jiang, since such a setup would result in a cardiac phantom imaging system where in one device could do all the functions of a cardiac phantom and image the phantom.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

11. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sanjay Cattungal whose telephone number is (571)272-1306. The examiner can normally be reached on 9:30 - 5:00 pm.

13. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on (571)272-4740. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SPC

  
ELENI MANTIS MERCADER  
SUPERVISORY PATENT EXAMINER